

COURTROOM MINUTE SHEETDATE March 19, 2024CASE NO. CR-22-00209-JDU.S.A. -v- BLAINE DYER and JAMES ("JIMMY") DYERCASE NO. CR-21-00282-JDU.S.A. -v- MITCHELL K. COATNEYCASE NO. CR-20-00307-JDU.S.A. -v- JUSTIN BIGGSCOMMENCED 9:00 a.m.ENDED 12:45 p.m.COMMENCED 1:30 p.m.ENDED 6:05 p.m.TOTAL TIME 8 hrs. and 15 mins.JUDGE JODI W. DISHMANDEPUTY NYSSA VASQUEZREPORTER CASSY KERRPROCEEDINGS: EVIDENTIARY HEARING

Plf. Counsel: Julia E. Barry and Brandon Hale,
AUSA (with Karen Hadrava, legal assistant and
FBI Special Agent Jason Wildeman)

Dft. Counsel: L. Justin Lowe and Michael S.
Johnson, Retained (for Blaine Dyer);
Robert D. Gifford, II, Retained (for James
("Jimmy") Dyer; Jay D. Husbands, Retained (for
Mitchell Coatney); and William H. Bock,
Retained (for Justin Biggs)

MINUTE: Parties present as noted above. Defendants appear in person with retained counsel. Counsel for James Dyer announces an agreement as to restitution has been reached between James Dyer and Continental. Counsel for James Dyer further advises he will be stipulating to forfeiture (by a money judgment) and a joint notice will be filed memorializing same. Counsel for James Dyer lastly informs the Court the objection to the 2-level enhancement for sophisticated means within the Final PSR will be withdrawn. The Court advises that when the parties get to oral argument on the issues noticed for this hearing, the Court will want to hear from the parties on the issues of offset of the restitution award by civil settlements with Continental and joint and several liability, and that if, at the conclusion of the hearing, the parties wish to seek leave to address issues further through supplemental briefing, it will be due within fourteen days. Because the hearing does not conclude, the Court will address the issue and any deadline for supplemental briefing at the continued hearing following oral argument.

Government moves to admit its Exhibits 1 through 48. Counsel for Defendant Blaine Dyer states that he has no objection so long as defense has the same courtesy on his Exhibits 1 through 62. Counsel for the Government says it has limited objections to the defense exhibits on relevance, that the government will stipulate to foundation and then argue relevance if and when it becomes appropriate upon admission. The Court admits Government Exhibits 1 through 48.

Counsel for Government presents witnesses for testimony as shown below. Witnesses sworn. Testimony of witnesses heard. Counsel for Defendant Blaine Dyer presents witnesses for testimony as shown below. Witnesses sworn. Testimony of witnesses heard.

WITNESSES FOR GOVERNMENT:

1. FBI Special Agent Jason Wildeman
2. Mark Oekerman
3. Matt Simmons
4. Mitchell Coatney (listed by both parties)

WITNESSES FOR DEFENDANT BLAINE DYER:

1. Justin Biggs
2. James “Jimmy” Dyer
3. Blaine Dyer

Government’s Exhibits: 1 through 48.

Defendant Blaine Dyer’s Exhibits (referenced but not admitted by counsel): 27, 36, 34, 58 through 62, 1, 2, 3, 4, 5, 7, 11, 14 – 25, 26, 31 – 40, 41 – 45, 46, 47, and 49.

During the direct testimony of Blaine Dyer (at 6:00 p.m.), the Court **CONTINUES** this proceeding to a date to be set by the Court following coordination with counsel for the government and counsel for Blaine Dyer. The following parties and counsel are excused from attending the continued hearing: Justin Biggs, Mitchell Coatney, and James Dyer.

All four (4) defendants are released back on bond with previously set conditions.

Authority cited during hearing by Court:

1. 18 U.S.C. § 3664(e)
2. *United States v. Griffith*, 584 F.3d 1004 (10th Cir. 2009)
3. *United States v. Gandy*, 36 F.3d 912 (10th Cir. 1994)
4. *United States v. Spear*, 491 F.3d 1150 (10th Cir. 2007)
5. *United States v. Egbert*, 562 F.3d 1092 (10th Cir. 2009)
6. *United States v. Bader*, 678 F.3d 858 (10th Cir. 2012)